

STATUTORY INSTRUMENT

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THE ENVIRONMENT PROTECTION AGENCY ACT, 2022
(ACT No. 15 OF 2022)

THE LEAD IN PAINT REGULATIONS, 2025.

Short title

In exercise of the powers conferred on the Minister under section 77 of the Environment Protection Agency Act of 2022, the Minister, after consultation with the Board, hereby makes the following Regulations -

PART I - PRELIMINARY

1. In this Regulation, unless the context otherwise requires - Interpretation.

"Agency" means the Environment Protection Agency Sierra Leone referred to in section 2 of the Environment Protection Agency Act, 2022 (Act No. 15 of 2022);

"coating material" means a product, in liquid, paste or powder form that, when applied to a substrate, forms a layer possessing protective, decorative and/or other specific properties;

"disposal" means the treatment, temporary storage and systematic destruction of lead and lead compound waste in accordance with the applicable law regulating hazardous wastes;

"importer" means a person that undertakes the entry of a product into Sierra Leone including a consignee;
"exporter" means a person or company, including a consignee that undertakes the sending of products to another country for sale;

"parts per million" means a unit measure of dissolved solids in solution; it also means one part of a dissolved substance in one million parts of the solution, 90 ppm means 90g in 1,000,000 ml (millilitres) of solution. (This is equivalent to $0.009\% = 90 \mu\text{g/g} = 90 \text{ mg/kg}$);

"manufacturer" means a person or company that undertakes the physical or chemical transformation of substances into a new product, performed either by power-driven machines or by hand and markets it under his name, trademark or private label;

"paint" means a pigmented coating material which, when applied to a substrate, forms an opaque dried film having protective, decorative or specific technical properties;

"person" means an individual, partnership, corporation, association or non-profit organisation;

"substrate" means a surface to which a coating material is applied or is to be applied;

"total lead content" means a weight percentage of the total non-volatile portion of the paint or as a percentage of the weight of the dried paint film;

"lead additive" includes lead compound intentionally added to paint to give it certain properties such as colour, reduced corrosion on metal surfaces or faster drying time;

"lead poisoning" means excessive human exposure to lead, either via inhalation or ingestion which is typically associated with severe health effect;

"lead paint" means paint or a similar coating material with lead content that exceeds the limit of 90 parts per million total lead by weight under Regulation 2;

"material change" means a change that a manufacturer, importer or exporter makes to the design, manufacturing process or the source of component parts, for the paint or similar coating material, which a manufacturer, importer or exporter, exercising due care, knows or should know, could affect compliance with the 90 parts per million total lead limit;

"recognised laboratory" means an independent laboratory that has no interest in the transaction between the manufacturer, importer or exporter and the distributor or retailer, and uses standards accredited under ISO/IEC 17025 by a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA), or one of its recognized regional bodies, such as the Inter-American Accreditation Cooperation (IAAC), the European cooperation for Accreditation (EA), or the Asia Pacific Laboratory Accreditation Cooperation Incorporated (APLAC) or any other competent accreditation body in Africa, or a laboratory which uses an accredited test method as detailed in the Schedule;

"sufficient samples" means the number of samples of paint or similar coating materials that the Agency determines is sufficient to provide a high degree of assurance that the tests conducted for declaration of conformity purposes accurately demonstrate the ability of such products to meet the 90 parts per million total lead limit;

"varnish" means a transparent coating material.

PART II - PURPOSE AND SCOPE OF THE REGULATIONS

Purpose 2. These regulations prescribe acceptable limit of lead in paint, varnishes and other similar coating materials to minimize exposure of lead that affects human health and the environment.

Scope. 3. These regulations shall apply to lead in paint, varnishes and other similar coating materials manufactured, imported, sold or distributed in within the borders of Sierra Leone.

PART III - LEGAL LIMITS ON TOTAL LEAD CONTENT

Legal limits on total lead content. 4. (1) Unless as otherwise determined by the Agency, paint, varnishes and similar coating materials shall not contain lead (calculated as lead metal) in excess of 90 parts per million of the weight of the total non- volatile content of the paint or the weight of the dried paint film.

(2) The Agency may, as and when necessary, using global standards and practice revise the 90 parts per million requirement under this regulation.

(3) Paint and similar coating materials may contain lead above the 90 parts per million total lead limit under this regulation -

- (a) one year from the date of enactment of this regulation in the case of architectural, decorative and household applications; and

- (b) 2 years from the date of enactment of these regulations in the case of industrial applications.

PART IV - DECLARATION OF CONFORMITY BASED ON TESTING BY THIRD-PARTY LABORATORY

5. (1) A manufacturer, importer or exporter shall make a declaration of conformity before distributing in the market or importing for consumption a paint, varnish or similar coating materials. Declaration of conformity to be made before distributing.

(2) A manufacturer, importer or exporter shall, for the purposes of sub-regulation (1), -

- (a) submit sufficient samples of the first production batch paint to a third-party accredited laboratory or a laboratory using the standard operating procedures and test methods in the Schedule to be tested for compliance with the 90 parts per million total lead limit; and

- (b) issue a declaration of conformity that certifies that such products comply with the 90 parts per million total lead limit, based on such testing.

6. Manufacturers, importers and exporters shall maintain records of declarations of conformity and laboratory test results and attestations, which support such declarations of conformity, for a period of at least 3 years. Requirement to maintain records.

7. (1) An importer or exporter of paint or paint products may rely on a foreign manufacturer's test results to issue its own declaration of conformity. Foreign manufacturer's test results may be used.

(2) An importer or exporter of paint or paint products relying on a foreign manufacturer's test results under sub-regulation (1), shall -

- (a) exercise due care to ensure the manufacturer's test results meet the requirements of these Regulations; and
- (b) obtain records of the laboratory test results and attestations, containing sufficient information on how the testing was conducted.

PART V - NEW DECLARATION OF CONFORMITY AFTER MATERIAL CHANGE

Submission of samples and issue of declaration conformity.

8. A manufacturer, importer or exporter shall, where there has been 'material change',-

- (a) submit sufficient samples of the paint or similar of coating material to a third-party accredited laboratory or a laboratory using the standard procedures and test methods specified in the Schedule, to be tested for compliance with the 90 parts per million total lead limit; and
- (b) issue a new declaration of conformity that certifies that such paint or similar coating material complies with the 90- parts per million total lead limit based on such testing.

Declaration of conformity by manufacturer or importer.

9. A declaration of conformity issued under regulation 5 shall be made, in the case of -

- (a) paint or coating materials manufactured in Sierra Leone, by a manufacturer;
- (b) paint or similar coating materials manufactured outside Sierra Leone, by an importer.

10. A Manufacturer, importer or exporter of paint or similar coating materials shall provide the declaration of conformity to-

- (a) distributors and retailers; and
- (b) the Agency.

Declaration of conformity to be provided to distributors, retailers and the Agency.

11. (1) A declaration of conformity shall include -

- (a) identification of the paint or similar coating material covered by the declaration,
- (b) identification including name and contact address of the manufacturer, importer or exporter certifying compliance with the 90- parts per million total lead limit;
- (c) identification of the object of the declaration of conformity (e.g. name, type, date of production or model number of a product, description of a process, management system, person or body, and or other relevant supplementary information);
- (d) a sworn affidavit signed by the manufacturer or importer exporter stating that the paint or similar coating material is in compliance with the 90-parts per million total lead limit, and
- (e) contact information for the testing laboratory and the individual maintaining records of test results.

Content of declaration of conformity.

(2) The Agency may, as it deems necessary, require a declaration of conformity to include management system and or a sworn affidavit signed by the manufacturer or importer.

(3) Every declaration of conformity shall be made in the case of -

- (a) paint, varnishes or similar coating material manufactured, imported, sold, or distributed in Sierra Leone shall be made in English;
- (b) paint, varnishes or similar coating material exported from Sierra Leone for sale or distribution in another country shall be made in the official language of the receiving country with a copy of the English version submitted to the Agency and any other relevant authority.

Investment
Agreements.

12. A government agreement negotiated and ratified for the establishment of industries in Sierra Leone shall not exempt a person or entity from complying with these Regulations.

Accredited or
recognised
laboratory.

13. (1) For its accreditation to be accepted to test for the 90 parts per million total lead limit for declaration of conformity purposes, a third-party shall be accredited for or use verified international test methods for sample preparation and test methods which are detailed in the Schedule.

(2) In the absence of an accredited laboratory as required in sub-regulation (1) of this regulation, a recognised laboratory may be accepted to test for the 90 parts per million total lead limit using standard, verified test methods for declaration of conformity purposes.

(3) The Agency, in consultation with the Sierra Leone Standards Bureau, should verify the suitability of a recognized laboratory to test for the 90 parts per million limit using standard validation procedures.

14. (1) Sampling under these regulations shall be conducted in accordance with ISO 15528 to determine compliance with the 90 parts per million limit.

Sampling
storage,
labelling
and sampling
report.

(2) Every sample to be tested for the 90 parts per million limit shall be stored under suitable conditions in an airtight container and, where required, protected from light and moisture for the period specified, taking into consideration all relevant safety regulations.

(3) A sample taken for testing shall be labelled in such a way that it can be traced, and for that purpose shall include the following information-

- (a) the sample description;
- (b) the date of manufacture and expiry;
- (c) the trade name or code;
- (d) the date of sampling;
- (e) the sample number;
- (f) the location of sampling, including plant, consignee or vendor;
- (g) the batch or lot number;
- (h) the name of the person taking the sample; and
- (i) any hazard symbols necessary

15. A sample report shall include all the labelling requirements in sub-regulation (2) of regulation 12 and the following other information -

- (a) reference to ISO 15528;
- (b) sampling device used;
- (c) type of container used to sample
- (d) any remarks containing the condition of the container, packaging and or consignment;
- (e) any other remarks that may be necessary.

PART VI - INSPECTIONS

Power to inspect.

16. (1) An authorised officer or employee of the Agency shall have power to-

- (a) enter a factory, warehouse, venue or establishment in which paint or similar coating materials are manufactured or held; and
- (b) inspect and test, at reasonable times and in a reasonable manner, such paint and similar coating materials to assess compliance with this law.

(2) The owner, operator or agent in charge may request from an authorised officer or employee proof of identification, and the authorised officer or employee of the agency shall produce his official identity.

PART VII - PROHIBITED ACTS

Prohibited Acts.

17. The following activities under this regulation are Prohibited -

- (a) selling, offering for sale, manufacturing for sale, distributing in commerce, importing into Sierra Leone, any paint or similar coating material that contains lead or lead compounds and in which the lead (calculated as lead metal) is in excess of 90 parts per million of the weight of the total non-volatile content of the paint or the weight of the dried paint film.

- (b) failure or refusal to permit entry or inspection and testing pursuant to this regulations.
- (c) failure to furnish a declaration of conformity as required by this regulation or issue a false declaration of conformity if such person in the exercise of due care has reason to know that the declaration of conformity is false or misleading in any material respect, or
- (d) exercise, or attempt to exercise, undue influence on a third-party laboratory with respect to the testing, or reporting of the results of testing of any product.
- (e) falsifying information on the declaration.

PART VIII - OFFENCES AND PENALTIES

18. A person shall not -

Offences.

- (a) sell, offer for sale, manufacture for sale, distribute in commerce, import into Sierra Leone, a paint or similar coating material that contains lead or lead compounds and in which the lead (calculated as lead metal) is in excess of 90-parts per million of the weight of the total non-volatile content of the paint or the weight of the dried paint film;
- (b) fail or refuse to permit entry or inspection and testing under this Regulation;
- (c) fail to furnish a declaration of conformity as required under this Regulation or issue a false declaration of conformity knowing that the declaration of conformity is false or misleading in a material respect, or

- (d) exercise, or attempt to exercise, undue influence on a third-party laboratory with respect to the testing, or reporting of the results of testing of a product.

Penalties.

19. (1) A person who violates or caused the violation of Regulation commits an offence and is liable, upon conviction, to a fine not less than NLe. 25, 000 or to a term of imprisonment of not less than 2 years or to both such fine and imprisonment.

(2) Notwithstanding sub-regulation (1), the court may, upon sufficient evidence presented to it by the Agency or any other person, -

- (a) order the recall of paint or similar coating material that does not comply with the 90-parts per million total lead limit or other appropriate relief;
- (b) restrain, through an application, any further violation of these Regulations, and
- (c) authorise the seizure of equipment or tools used to commit a violation under these Regulations.

(3) An individual, director, officer or agent of a corporation who knowingly and wilfully authorises, orders or performs a violation of these Regulations shall be subjected to penalties without regard to penalties to which that corporation may be subject under these Regulations.

(4) In addition to the penalties under this Regulation, the penalty for a criminal violation of these Regulations may include the forfeiture of items which are the subject matter of the violation.

PART IX - CITIZEN SUIT

Citizen suit.

20. (1) A person may bring an action to -

- (a) enforce penalties under this Regulation;
- (b) obtain appropriate injunctive relief; or
- (c) apply an appropriate civil penalty.

(2) A court may, subject to sub-regulation (1), order the defendant to pay legal fees and reasonable litigation costs of the plaintiff.

PART X - MISCELLANEOUS PROVISIONS

21. (1) A manufacturer, importer or exporter of paints and similar coating materials shall comply with applicable existing law and laws prescribed by the relevant Agency or other competent authority for the transport, treatment, storage and disposal of lead wastes and contaminated equipment off-site.

Transport, treatment, storage and disposal.

(2) The Agency may from time to time, prescribe standard procedures for the transportation, treatment, storage and disposal of lead wastes and contaminated equipment off-site.

(3) The Agency shall, in the development and prescription of standard procedures under sub-regulation be guided by the international standards specified in the Schedule.

SCHEDULE

Recommended International Standards for Sample Preparation

ISO 1513, Paints and varnishes - Examination and preparation of test samples

ISO 1514, Paints and varnishes - Standard panels for testing

ASTM E1645-16, Standard Practice for Preparation of Dried Paint Samples by Hotplate or Microwave Digestion for Subsequent Lead Analysis

ASTM E1979-17, Standard Practice for Ultrasonic Extraction of Paint, Dust, Soil, and Air Samples for Subsequent Determination of Lead

Recommended International Standards for Test Methods:

ISO 6503, Paints and varnishes - Determination of total lead - Flame atomic absorption spectrometric method

ASTM E1645-16, Standard Practice for Preparation of Dried Paint Samples by Hotplate or Microwave Digestion for Subsequent Lead Analysis

ASTM D3335-85a (2014), Standard Test Method for Low Concentrations of Lead, Cadmium, and Cobalt in Paint by Atomic Absorption Spectroscopy

ASTM E1613-12, Standard Test Method for Determination of Lead by Inductively Coupled Plasma Atomic Emission Spectrometry (ICP-AES), Flame Atomic Absorption Spectrometry (FAAS), or Graphite Furnace Atomic Absorption Spectrometry (GFAAS) Techniques

MADE *this* *day of February, 2025*

MR JIWOH EMMANUEL ABDULAI
Minister of the Environment and Climate Change

FREETOWN,
SIERRA LEONE.